

American Society for Deaf Children

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November 21, 1996

William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

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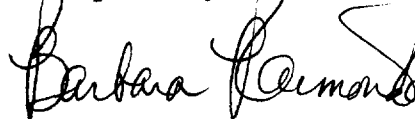
FEDERAL COMMUNICATIONS COMM
OFFICE OF SECRETARY

Dear Mr. Caton:

The American Society for Deaf Children submits these comments to the Federal Communications Commission on its Notice of Inquiry on Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities, WT Docket No. 96-198. The American Society for Deaf Children is a parent run organization providing information and support to families with deaf or hard of hearing children. We advocate for deaf and hard of hearing children's total quality participation in education, the family, and the community.

We thank the FCC for its commitment to accessibility for all Americans.

Respectfully submitted,



Barbara Raimondo
Parent and Board Member

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Enclosures

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**Before the
Federal Communications Commission
Washington, D.C.**

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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY**

In the Matter of)
Implementation of Section 255 of the)
Telecommunications Act of 1996)
Access to Telecommunications Services,)
Telecommunications Equipment, and)
Customer Premises Equipment)
By Persons with Disabilities)

WT Docket No. 96-198

**Reply Comments of the
American Society for Deaf Children**

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Board Member
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**Reply Comments of
the American Society for Deaf Children**

Introduction

The American Society for Deaf Children (ASDC) submits these reply comments to the Federal Communications Commission on its Notice of Inquiry on Access to Telecommunications Services, Telecommunications Equipment, and Customer Premises Equipment by Persons with Disabilities (released September 19, 1996). The American Society for Deaf Children supports the comments and reply comments of the Consumer Action Network, the Council of Organizational Representatives, and the National Association of the Deaf. We thank the FCC for its commitment to telecommunications access for all people and for the opportunity to comment on this issue.

The American Society for Deaf Children is a parent run organization providing information and support to families with deaf or hard of hearing children. We advocate for deaf and hard of hearing children's total quality participation in education, the family, and the community. We support the competent use of signing and recognize and respect deaf culture as critical for enhancing and broadening the social, personal, and educational aspects of deaf and hard of hearing children's lives. We also recognize the importance of accessibility to telecommunications equipment and services for our children. Those who do not have access to this technology will fall behind as we approach the 21st century. More and more classrooms are being wired for the "information superhighway." It is critical that our children have the same access to information as their hearing peers both in and out of the classroom.

9. . . . We seek comment regarding the treatment of equipment that can be used with telecommunications services and which also can be used with

other services that do not fall within the statutory definition of telecommunications services.

This type of equipment should be subject to the requirements of Section 255. If it were not, the liability of manufacturers would turn on the use each consumer put it to, rather than on what the law requires. Both consumers and manufacturers need clear rules and expectations. This type of equipment should be treated as telecommunications equipment for the purposes of this law.

11. . . . We note that all equipment marketed or sold in the United States must meet all applicable technical and operational requirements, but we question whether the same approach should be adopted for accessibility standards, especially in light of different accommodations that may be necessary for specific disabilities. We also ask commenters to consider the effect of differing national equipment accessibility standards on how manufacturers' ability to design, develop, and fabricate accessible equipment should be weighed when evaluating complaints. When considering what accessibility measures are readily achievable, should the Commission give weight to the different standards confronted by a manufacturer with markets in other nations?

Equipment manufacturers should be required to meet accessibility requirements just as they meet applicable technical and operational requirements. Accessibility standards are no less important than technical and operational requirements. Telecommunications equipment is not usable if it does not meet applicable technical and operational standards. Similarly, telecommunications equipment is not usable by consumers with disabilities if it does not meet applicable accessibility requirements.

12. . . . If several companies are involved in the design and manufacture of a single piece of equipment, how should responsibility be apportioned? To the extent that some manufacturers design, develop, and fabricate equipment but then license their equipment design to other manufacturers for production, how should Section 255 apply to the secondary manufacturers or resellers?

Each company must remain responsible for accessibility. Secondary manufacturers or resellers must be accountable to comply with the law the same way primary manufacturers are. In the process of obtaining the license, they should ensure that the product design provides accessibility and usability.

17. . . . We ask commenters to supply pertinent information regarding:

- **The types and levels of costs that have been incurred to achieve or improve accessibility of existing offerings, and the extent to which they**

may serve as a basis for anticipating costs associated with accessibility standards to be developed.

- **Cost savings when accessibility is achieved at the design stage . . .**

The primary tools deaf and hard of hearing consumers have used to acquire accessibility are TTYs and caption decoders. A TTY can cost anywhere from \$250 for a simple model to more than \$800 for a TTY with a large visual display for visually impaired deaf or hard of hearing users. A new type of telephone which carries both voice and TTY calls costs around \$250. Caption decoders cost around \$150, but putting the caption chip into the television during the manufacturing process saves this cost.

Further, the FCC should consider the indirect costs of not providing accessibility. Deaf and hard of hearing children who do not have the same access to information as their hearing peers cannot obtain an equal education, and therefore, will have fewer higher education and professional opportunities. As more classrooms rely on the Internet and long distance learning, accessibility becomes more important. A well-educated child will grow into an independent, contributing, tax paying adult.

18. . . . How can or should the financial resources of firms of widely varying characteristics be considered in a way that does not distort competitive incentives, but at the same time ensures accessibility?

In looking at the factors that determine whether a certain type of accessibility or usability is readily achievable, one does not see a requirement that the resources of various firms be compared. The readily achievable analysis is done on a case by case basis. Fair application of this analysis should not distort competitive incentives.

Some commenters have emphasized the importance of market forces in providing an incentive for making products accessible. *See, e.g., Microsoft, p. 23.* It is our view that if market forces were strong enough to ensure that accessible products would be produced, then there would have been no need for Section 255 in the first place. It is precisely because the market has not responded to consumer needs that this provision was put into the law.

23. We request commenters to provide an assessment of the extent to which accessible telecommunications services, telecommunications equipment, and CPE are currently available. Specifically, we request commenters to address the kinds of services and equipment that are currently on the market, and in the design and development stages and the trial or testing phase as well.

There are many services, equipment, and CPE that currently are not accessible to or usable by deaf and hard of hearing individuals. These include:

- Public pay phones, which usually do not provide TTY access or are not located near an electrical outlet so that a portable TTY may be used. Some pay phones which are TTY accessible do not allow the caller their choice of carrier, even though this option is available to hearing callers.
- Voice mail. A deaf or hard of hearing caller often is unable to hear the voice prompts in order to respond. Voice mail is normally not accessible to TTY callers. And usually a voice mail system operates too quickly to be used successfully the telephone relay service.
- Call waiting, call forwarding, and call interrupting services.
- Digital personal communications devices, which do not fit the acoustic cups of a TTY and do not offer a jack for TTY input.
- Digital personal communications device systems that are not designed to carry TTY tones.
- Computer services including the Internet and World Wide Web sites that do not have visual information to represent auditory information. For example, one can download a movie from the Internet, but captions will not be displayed. Some computers with television reception capability do not display captions.
- Computers which are not compatible with ttys using the Baudot system.
- Pagers. Alpha-pagers do not have a direct tty answering service for callers to leave a typed message to other deaf individuals who have pager service. The relay service must be used to reach the pager service to ask the service to leave a message. Many pager users who are deaf or hard of hearing do not get messages that are left for them, only a number to call, despite requests to obtain the worded message.
- Alarm systems that are connected to telecommunications services but are not accessible through TTYs.

25. We ask commenters to address the issue of defining "existing peripheral devices" and "specialized CPE," including specific examples of devices and equipment that could be considered to fall within the scope of the definition .

Specialized CPE commonly used by deaf and hard of hearing people include listening systems such as FM devices, volume controls, caption decoders, TTYs, and flashing lights to indicate sound, for example, the ringing of a phone.

33. A third approach would be to promulgate rules to assist in resolving complaints brought under Section 255. Should we adopt as rules any requirements – such as outreach procedures or accessibility assessments? Should such rules allow for trade associations to undertake these procedures or assessments on behalf of individual service providers? Should these rules exempt small businesses or any other entities?

In our view, it is imperative that the FCC promulgate rules under Section 255. The promises of accessibility and usability would be hollow if the FCC adopted anything less. The FCC has consistently worked to ensure access for individuals with disabilities, as evidenced by its rulemaking proceedings on the telecommunications relay service, hearing aid compatibility, television decoders, and wireless enhanced 911 systems. Further, as well stated in the Comments of the National Association of the Deaf, it was the intent of Congress for the FCC to promulgate rules to implement Section 255. Comments of the National Association of the Deaf, p. 3.

We disagree with the commenters who have urged the FCC to issue a policy statement or voluntary guidelines, and not to promulgate rules. *See, e.g.,* Comments of Northern Telecom, p.13, Comments of Microsoft Corporation, p. 31-32, Comments of the Cellular Telecommunication Industry Association, p. 4, Comments of Omnipoint, p. 3. We believe that rules can be written that will not constrain innovation and will not be overly rigid.

The rules should cover the design and manufacturing process and should require outreach procedures. Manufacturers and service providers must work with the disability community in designing equipment and services. It is only through such cooperation that accessibility and usability can be achieved. Further, accessibility and usability assessments must be required. Manufacturers and service providers already assess how their products will be used by non-disabled consumers before bringing them to market. An assessment of how products will be used by disabled consumers can build on that process. We are pleased to see industry commenters recognizing the importance of input from persons with disabilities in this area. *See, e.g.,* Comments of AT&T, pp. 7-8, Comments of the Personal Communications Industry Association, p. 4.

Substantive rules related to accessibility and usability should be promulgated as well. These rules should detail what type of accessibility and usability is required. For example, to be accessible to and usable by deaf and hard of hearing persons, telecommunications equipment and services must require that all audible information is also provided in a visual format, including text where appropriate. Equipment and services must be operable without the use of hearing or voice. In the transition from analog to digital technologies, care must be taken to ensure that visual information remains intact. Persons with

disabilities must not be required to pay any more for functionally equivalent products than persons without disabilities pay for products.

While rules should allow for trade associations to undertake these procedures or assessments on behalf of individual service providers, this in no way should allow the individual services providers to be excused of responsibility for compliance.

There should be no blanket exemptions for small businesses or any other entities. The statute allows for exemptions under the "readily achievable" standard. If a small business or other entity can show that accessibility is not readily achievable, it will qualify for an exemption. If it cannot show that accessibility is not readily achievable, it will correctly be required to offer an accessible, usable product.

35. . . . We seek comment on how the Commission should work in conjunction with the Access Board to develop equipment and CPE guidelines

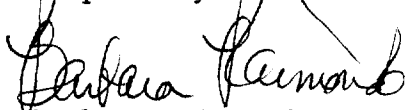
. . .

Currently the Telecommunications Access Advisory Committee is developing guidelines for accessibility and usability. The FCC should adopt those guidelines as minimum standards and review them periodically.

Conclusion

Access to technology is essential for our deaf and hard of hearing children to achieve their full potential at school, at home, and later in the workplace. ASDC emphasizes the importance of promulgating rules to enforce Section 255. We thank the FCC for its ongoing commitment to accessibility for persons with disabilities and for the opportunity to comment.

Respectfully submitted,



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